

# How constitutional is our government?

M. EMDADUL HAQ

EVERY nation in the world claims to have a constitution, but most of them don't practice constitutionalism and only some have constitutional governments (CG). The time seems to be appropriate for an examination of the general application of constitutionalism in Bangladesh in the current situation.

For delineating CG, Stanley de Smith sets the following five tests: (i) political competition, (ii) free, fair and periodic elections, (iii) government accountability, (iv) popular participation, and (v) effective guarantees of civil and political liberties. People having experience of the recent political maneuverings in Bangladesh might concur that the country doesn't meet the criteria mentioned above.

Besides, Louis Henkin provided some preconditions that include: (i) government according to the constitution; (ii) separation of powers; (iii) sovereignty of the people and the government; (iv) constitutional review; (v) independent judiciary; (vi) limited government against individual rights; (vii) controlling the police; (viii) civilian control of the military; and (ix) strictly limited state power to suspend the operation of the constitution. Bangladesh experience suggests that there is no limit upon what governments may do.

CG is associated with democratic governance and is an antithesis of arbitrary or despotic rule. It prohibits tyrannical or whimsical rule by any individual or group/party. It believes in people's sovereignty that Rousseau had outlined in pre-revolutionary France in the 18th century.

In a CG, legitimacy of the government power is derived from the people's will. It doesn't practice majority dictatorship, rather it emphasises consensual governance as defined by John Locke in UK in the 17th century. Popular will is legitimately expressed and established in the CG.

A CG is accountable to the popular will and the governing authority is accountable to the governed through elections and referendum. There is accountability of office bearers to the body politic or electorate. The government follows regular procedures in promotion and transfer, and discipline in fiscal accounting. In a two-directional flow of accountability, citizens also have the responsibility of controlling the acts of the government by raising their voice, if necessary.

In a CG, office bearers conduct themselves as the representatives of their constituents and act in the legislature on behalf of their electorate. Periodical free and fair elections take place for ensuring representative nature of governance. Legislative members maintain constant touch with their constituents to keep them aware of changing state policies and issues. In most democracies, legislators are accustomed to receiving letters, emails, text messages and phone calls from their voters on a regular basis. In a CG advice is appreciated and their suggestions taken into account in the framing of laws and policies on different issues.

Any government could be regarded as constitutional so long as it provides procedural stability, has substantive flexibility and preserves the rules of political procedure. Adaptation to changing circumstances is an important quality of a CG and it can make policies favourable to the

customs and way of thinking of the people. As a legacy of the colonial past, however, our public leaders remain rigid in their personal prejudice instead of compromising with the conflicting interests.

'No one is above the law' is another important pillar of the CG. Professor E.C.S. Wade emphasises three ideals of the

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rule of law: (i) a preference for law and order within a community rather than anarchy, warfare and constant strife, (ii) government must be conducted according to law and, in disputed cases, judicial decisions will declare what is required by law, and (iii) a body of political opinion about the declared rules in matters both of substance and of procedure. One may

wonder whether our leaders have the adequate training or mindset to have respect for the principles enunciated by Professor Wade.

Normally, a constitution is amended or changed through two-thirds majority in the legislature. Nevertheless in a unicameral legislature like in Bangladesh, and with presence of Article 70 in the Constitution, amendment of the constitution can be smoothly carried out through the personal directives of the executive.

Openness and disclosure of information are regarded as important features of a CG. For maintaining transparency there cannot be any smokescreen created by political quarters or bureaucracy regarding their activities. Leaders and administrators need to be subject to disclosure of information and release details of official activities to the public, to whom they are accountable. People have to be adequately informed for greater participation in government activities, and it is obligatory for the legislature to publish a record of its debates, except for the security matters.

The debate over the practice of constitutionalism in Bangladesh goes on without ending. After four decades of independence, public leaders need to understand that constitutionalism is more than just having a constitution; it has to do with constitutional spirit, procedure, substance and institutions. Finally, taking lessons from mistakes and misdeeds of the past, the spirit of CG should be upheld by our public leaders to rectify things across the political spectrum.

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WORLD BREASTFEEDING WEEK 2014

## Breastfeeding: Ensuring a healthy future for newborns

POONAM KHETRAPAL SINGH

INITIATION of breastfeeding within one hour of birth and exclusive breastfeeding for the first six months of an infant's life is a key factor for the survival of a newborn. Ensuring optimal breastfeeding depends on the care and support a mother receives during pregnancy, child birth and immediately after delivery. Healthcare providers play a critical role in assisting mothers and their families to initiate and promote breastfeeding and enable all infants to reach the goal of survival, optimum growth and development. In the member states of WHO's South-East Asia Region an estimated 51% of the infants are exclusively breastfed, with a range varying from 15% to 85%. Sustained efforts are required to enhance the breastfeeding rates further in the countries.

Every year the World Health Organization joins its partners in observing the World Breastfeeding Week during the first week of August. This year's theme draws attention to the critical role played by the communities -- mothers, fathers, families, employers and healthcare providers to initiate and promote breastfeeding.

Breast milk is the best food for newborns and infants, providing all the nutrients they need for their healthy growth and development. It protects newborns and infants from common childhood illnesses -- such as diarrhoea and pneumonia -- that are the leading causes of under-five mortality in South-East Asia. Breastfeeding also benefits mothers' health in several ways: it induces a lack of menstruation offering longer intervals between births with lower risk of maternal morbidity and mortality; and in the long term, reduces the risks of several chronic diseases such as breast and ovarian cancer, osteoporosis and coronary heart disease.

Nearly a million newborns die every year in WHO's South-East Asia Region, many of whom can be saved by early and exclusive breastfeeding. High newborn mortality in this Region is one of the reasons that the Millennium Development Goal's target of reducing child mortality by two-thirds by 2015 is unlikely to be achieved. In recognition of this constraint, WHO promotes a package of 'Essential Newborn Care Interventions' that includes breastfeeding as an important component.

Globalisation and increasing industrialisation have led to large numbers of women, including those from the developing countries of South-East Asia, entering the formal and informal employment sectors. It is the lack of an environment conducive for breastfeeding at the workplace that has been identified by women as the main constraint to continue breastfeeding when they return to work after childbirth.

In line with international agreements that protect the rights of women and children, several member states in the South-East Asia Region have established policies, practices and legislation that guarantee maternity leave, provide protection and relief to mothers who are breastfeeding and create a more enabling environment at the workplace. However, the benefits of these measures have yet to reach the majority of women who want to continue breastfeeding at their workplace. WHO has been advising governments to encourage mothers to exclusively breast feed for first six months and will continue to emphasise this with member states and partners.

Recent global initiatives like the UN Secretary-General's 'Strategy for Women's and Children's Health,' 'A Promise Renewed -- Call to Action for Child Survival,' and 'Every Newborn Action Plan' have all emphasised the importance of breastfeeding. Breastfeeding is also one of the global indicators for monitoring and accountability towards progress in child survival. At the same time, member states must strengthen the implementation and monitoring of the International Code for the Marketing of Breastmilk Substitutes, scale-up the implementation of the 'Baby-Friendly Hospital Initiative,' and ensure adequate 'Maternity Protection.' In this connection, the recent 'Joint UN Declaration for the South-East Asia Region' has emphasised that the evidence-based packages of interventions for maternal, newborn and child health, including breastfeeding, should be rapidly scaled-up in the member states to reach a high and equitable coverage to accelerate progress towards the achievement of MDGs 4 & 5.

I call upon families, civil society, employers, health care providers, professionals --obstetricians and paediatricians -- and governments to partner in providing a supportive environment to promote breastfeeding to ensure the best start to life for all newborns.

The writer is WHO's Regional Director for South East Asia.

## Deepwater exploration in the Bay of Bengal

IZAZ HOSSAIN

MUCH has been made of the difficulties of leasing out offshore gas blocks due to maritime boundary disputes. Now that the boundaries are delineated, and the blocks are fully defined, can the people responsible for our gas resources do what needs to be done? From past records, one cannot feel very hopeful. Maritime boundary dispute with Myanmar was resolved more than 2 years ago -- allowing 18 blocks to be explored -- but very little in terms of exploration activity has been initiated.

The attempt to exploit our deep offshore oil and gas resources was made very recently. In 2008, the caretaker government took the first initiative. Despite the fact that the boundaries on both sides were disputed, they had the courage and vision to draw up 28 blocks and invite bids for the deep offshore blocks. However imperfect the entire process may have been, they received bids from reputable companies. Unfortunately, due to lack of political mandate at that time, the blocks could not be awarded for exploration.

When the government came to power in 2009 they had everything ready to start deepwater exploration, but could not get their act together for quite some time.

Eventually however, they did use the already completed bidding and awarded Conoco Phillips 2 blocks, even though they had won 4 blocks. This whimsical decision displeased Conoco Phillips, who pointed out that exploring only two blocks substantially increased their financial risks. The obligations included 2-D seismic and at least 1 well in a three year period.

Seismic operation was completed but no data were released, and the 1-well drilling operation was never undertaken. Thus, Conoco Phillips seems to have wriggled out of one of the main obligations, leaving Bangladesh in a "back to square one" status regarding deep offshore prospects. Nearly 7 years have gone by -- 2 years of the caretaker government and 5 years of the previous government -- and we still



PHOTO: ANURUP KANTI DAS

hear the Petrobangla chairman saying: "We have no idea about resources in the deep offshore blocks."

One of the main reasons why Conoco Phillips is dilly dallying and Petrobangla is not being able to attract other reputable IOCs is that the PSC does not have enough incentives. First, it has been diluted by the removal of the "export clause," and second, it is continuing with an artificially low purchase price of gas. Without at least one of the incentives, deepwater exploration simply won't happen. There are several reasons why deep offshore gas exploration and production is expensive: (i) drilling costs are extremely high; (ii) not economical to develop small reserves; (iii) logistical challenge to maintain the platform and get the gas to shore; and (iv) high insurance cost to guard against accidents and other unforeseen events.

The worldwide average cost of drilling a deepwater well is \$100 million and can take several months to complete. Drilling rigs can cost as much as \$1 million per day. Deepwater developments require large

reserves, and the total number of wells needs to be kept small in order to make the project economically viable. The drilling cost component can be more than 50% of the total capital expenditure. Hence, companies always try to ensure a very high gas production rate per well.

Drilling and producing oil and gas from deepwater reservoirs present many technical and logistical challenges, and as a result costs are extremely high. Operating in water depths between 5,000 ft to over 10,000 ft, pressures greater than 10,000 psi, and temperatures close to freezing are some of the major challenges. Below the seabed, oil and gas can be located at depths exceeding 10 kilometers under hard rock, thick salt and tightly packed sand, where temperatures can rise to 150 degrees Celsius and the pressure increases to 20,000 psi.

Even though the environmental hazards from a gas platform or rig blowout are not as great as that from oil, the recent oil rig accident off the coast of Louisiana has changed the risk picture completely for all

types of petroleum exploration and production activity. The extremely high compensation that BP had to pay for this disaster automatically led insurance companies to substantially increase the premium for deepwater drilling and operation.

India increased its gas price from \$4.2 to \$8 per MCF (1000 ft<sup>3</sup>) last April. This large increase reflects not only the growing cost of importing LNG but also the increasing cost of domestic gas. India's onshore gas reserves are nearing exhaustion and new production is expected to come mainly from deepwater reserves. ONGC's two discoveries in the Mahanadi basin are viable at \$11 per MCF, to give a 10% return, said N.K. Verma, Director (Exploration) ONGC. "We will not be able to monetise them till we get a higher price," he added. Private sector company, Reliance Industries, which has been seeking a market-linked price expressed same sort of views.

If \$11 is the price needed to produce the gas in India's Mahanadi basin, what then would the price of gas have to be to produce from our deepwater reserves? Can we realistically expect it to be half that? Of course no one can accurately estimate at what price gas or oil can be produced, but it is clear that high price incentives are needed to attract IOCs to the risky business of deepwater gas exploration and production. If the price is too low, IOCs will always find a way not to produce the gas. Petrobangla, therefore, needs to do some serious homework to find out what the cost of production of our deepwater gas will be. If India's gas needs \$11, maybe ours will need \$8, but surely one cannot expect it to be below \$6.

The central question is: Are we serious about deepwater gas exploration? Gearing up gas exploration requires giving politically dangerous lucrative incentives to IOCs, instead it is safer to buy LNG at \$15 because people will not make accusations of selling of the country to multinational oil companies.

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QUOTABLE Quote

All truths are easy to understand once they are discovered; the point is to discover them.

Galileo Galilei

CROSSWORD by Thomas Joseph

ACROSS

1 "Gigi" star

6 Biological division

11 Baseball's Tony

12 Make blank

13 Doctrine

14 Lama's land

15 Resentful feeling

17 Purr producer

19 2016 Olympics host

20 Lamb's father

23 Scents

25 Rover's pal

26 "Gullible's Travels" writer

28 Turn suddenly

29 Snoopy, for one

30 Twisty turn

31 Maximum amount

32 Baseball's Ron

33 Nodding, perhaps

35 "Bolero" composer

38 Chip choice

41 Banish

42 Colorful flower

43 Muscular

44 Winter weather

DOWN

1 Guest's bed

2 Pub staple

3 Phone sounds

4 Finished

5 Free of additives

6 Very beginning

7 War of 1812 port

8 Collar

9 Try out

10 Clique

16 Neutralize

17 Make a cameo

18 Spring sign

20 Wagner work

21 "Rolling in the Deep" singer

22 Amsterdam of TV

24 Team leader: Abbr.

25 Govt. health watchdog

27 Eases off

31 Bowling spot

33 Egotist's focus

34 Painter Klee

35 Yank's foe

36 Hatchet's kin

37 Compete

39 Not square

40 Be decisive

Yesterday's answer

ALAMO DEEM

NADIR BELLE

ICAME OMEGA

MOPE TUSCAN

ANT TENTRY

LITERATE

COLA IRKS

LIBERATE

ACT LAS TON

DREAMY BYRD

LONGI MADAM

INDEX AMIGA

BESS JADEN

CRYPTOQUOTE

6-19

VQIG JIGL SLJ HLWID QATH. AX'V LIX ILQD XCH VBHLHFD DIY UAVV MD EIALE XII TVXS - DIY SQVI UAVV XCH VHLVH IT' GCHFH DIY SFH EIALE SLJ GCD.

- HJIAH BSLXIF

Yesterday's Cryptoquote: HJIAH BSLXIF DEFINITION OF YOUTH IS LIFE AS YET UNTOUCHED BY TRAGEDY.

- ALFRED NORTH WHITEHEAD

BEETLE BAILEY by Mort Walker

WE HAD OUR DIFFERENCES, BUT IN THE END, I CONSIDERED HIM A FRIEND

WHAT ARE YOU DOING?

WRITING YOUR EULOGY

GREG MORT WALKER

HENRY by Don Trachte

A XYDLBAAXR is LONGFELLOW

One letter stands for another. In this sample, A is used for the three L's, X for the two O's, etc. Single letters, apostrophes, the length and formation of the words are all hints. Each day the code letters are different.